

REMARKS/ARGUMENTS

In response to the Office Action mailed on August 5, 2004, applicants would request reconsideration.

The claims were rejected under 35 U.S.C. § 112 because the claims recite “cell adapted to hold a sample.” Applicants have amended claims 1 and 11 to indicate that it is adapted to receive a sample. The question under 35 U.S.C. § 112 was whether or not this would be indefinite to one of ordinary skill in the art. Certainly, one of skill in the art would know what is meant by a cell adapted to receive a sample. Accordingly, applicants would request withdrawal of this rejection.

The claims were further rejected under 35 U.S.C. § 102 in light of either the Cozzette et al. (“Cozzette”) or Henkens et al. (“Henkens”) reference. Applicants would request that the rejection based on the Henkens reference be withdrawn. This application has a filing date of April 14, 2000, well after Applicants’ effective filing date of 1998. Although it has a provisional application filing date of March 18, 1997, this is based on a continuation-in-part application. Therefore, the disclosure is not the same and therefore the rejection is inappropriate based on this reference. Applicants further maintain that the arguments set forth in the previous response relative to the Henkens reference is correct. Specifically, applicants claim a common reference electrode for a plurality of working electrodes. The Henkens reference discloses and requires a separate reference electrode for each working electrode.

With respect to the rejection based on the Cozzette reference, applicants would maintain the Cozzette reference is actually method of forming individual assay devices on a silicone chip. These are cut into individual devices for use. Therefore, in their actual finished state they can only be used to test one analyte. It may be argued that this structure temporarily is the same as applicants' some time during the manufacturing process. However, this argument is not logical because during this interim step the individual structures are not properly assembled into a device that is, in effect, a simultaneous electrochemical assay device. It would merely be a structure that must be modified further to be incorporated into an electrochemical device. Accordingly, it cannot anticipate the claims of the present invention. There is no disclosure of how multiple devices can be used together. Further, as in Henkens, there is a common reference electrode for each working electrode.

For these reasons, applicants would request reconsideration of the outstanding office action and allowance of the pending claims.

Respectfully submitted,

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